

# **SUFFOLK COUNTY SANITARY CODE - ARTICLE 7**

## **Water Pollution Control**

### **§760-701 Declaration of Policy**

The designated best use of all groundwaters of Suffolk County is for public and private water supply, and of most surface waters for food production, bathing and recreation. The federal government has officially designated the aquifer below Suffolk County as a sole-source for water supply. Therefore, it is hereby declared to be the policy of the County of Suffolk to maintain its water resources as near to their natural condition of purity as reasonably possible for the safeguarding of the public health and, to that end, to require the use of all available practical methods of preventing and controlling water pollution from sewage, industrial and other wastes, toxic or hazardous materials, and stormwater runoff.

### **§760-702 Statement of Purpose**

It is the intent and purpose of this Article to safeguard all the water resources of the County of Suffolk, especially in deep recharge areas and water supply sensitive areas, from discharges of sewage, industrial and other wastes, toxic or hazardous materials and stormwater runoff by preventing and controlling such sources in existence when this Article is enacted and also by preventing further pollution from new sources under a program which is consistent with the above-stated Declaration of Policy.

### **§760-703 Definitions**

Whenever used in this Article, unless otherwise expressly stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings set forth or indicated.

- A. Board means the Suffolk County Board of Health.
- B. Commissioner means the Commissioner of the Suffolk County Department of Health Services.
- C. Communal Sewage System means a series of sanitary intercepting sewers or intercepting collecting sewers, pumping stations, sewage treatment plants, and associated pollution control facilities for the conveyance, treatment, and disposal of

sewage operated by a person other than a municipality.

D. Deep Recharge Area means a geographic area of Suffolk County that contributes recharge water to a deep groundwater flow system, thus replenishing the quantity and affecting the quality of the long-term water supply. These areas are identified as Groundwater Management Zones I, II, III and V.

E. Department means the Suffolk County Department of Health Services.

F. Discharge means to release by any means or to relinquish control in a manner that could result in a release to the surface waters, groundwaters, surface of the ground, or below ground.

G. Disposal System means any plumbing or conveyances which result in or are capable of resulting in a discharge of sewage, industrial wastes, toxic or hazardous materials, stormwater runoff, cooling water or other wastes. This includes but is not limited to septic tanks, leaching pools, sumps, tile fields, holding tanks, outfalls and connecting piping.

H. Groundwater Management Zone means any of the areas delineated in Suffolk County by the "Long Island Comprehensive Waste Treatment Management Plan (L.I. 208 Study)," as revised by the "Long Island Groundwater Management Plan," and subsequent revisions adopted by the Board identifying differences in regional hydrogeologic and groundwater quality conditions. The boundaries of the Groundwater Management Zones are set forth on a map adopted by the Board, filed in the Office of the Commissioner in Hauppauge, New York.

I. Housebarge means the same as Houseboat except that a housebarge has no self-contained mechanical method of propulsion.

J. Houseboat means a floating structure used as a dwelling with a self-contained mechanical method of propulsion, not primarily designed to be a means of locomotion over water. The design criteria shall be generally accepted standards of naval architecture.

K. Industrial Waste means any liquid, gaseous, or solid waste substance or a combination thereof resulting from any operation or process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution of the water resources of the County of Suffolk in contravention of the requirements of this Article.

L. Municipal Sewage System means the series of sanitary intercepting sewers or intercepting collecting sewers, pumping stations, sewage treatment plants, or pollution control facilities, drains and other facilities, connections and equipment or any combination of the aforementioned, for the conveyance, treatment and disposal of sewage operated by the County of Suffolk or a municipality within the County of

Suffolk.

M. Offensive Material means any sewage or non-sewage fecal matter, urine, garbage, waste, or any putrescible organic matter, scavenger waste, the contents of private or individual sewage disposal systems, either liquid or solid, or other substances or liquid which may adversely affect health.

N. Other Wastes means refuse, spillage and the leaching from these materials, oil, tar, acids, chemicals, and all other discarded matter which may reasonably be expected to cause pollution of the waters of the County of Suffolk.

O. Private or Individual Sewage Disposal System means a water-flush facility for the disposal of sewage which does not connect either with a municipal or communal sewage system. This includes, but is not limited to, septic tanks, leaching pools and tile fields.

P. Restricted Toxic or Hazardous Materials shall mean the following toxic or hazardous chemicals that have been or could be expected to be detected in the groundwater, or in discharges to the groundwater, of Suffolk County. This definition applies to these substances alone or in combination, solution or mixture with other substances, or chemically compounded with other elements or compounds.

Arsenic	1,1 Dichloroethane	Roadway Deicing Salt
Barium	1,2 Dichloroethane	Silver
Benzene	1,1 Dichloroethylene	Styrene
Bromobenzene	1,2 Dichloropropane	Tetrachloroethylene
Bromodichloromethane	p-Diethylbenzene	1,2,4,5
Bromoform	Ethylbenzene	Tetramethylbenzene
Cadmium	p-Ethyltoluene	Toluene
Carbon	Fluoride	1,2,3 Trichlorobenzene
Chlorobenzene	Freon 113	1,2,4 Trichlorobenzene
Chlorodibromomethane	Lead	1,1,1 Trichloroethane
Chloroform	Mercury	1,1,2 Trichloroethane
Chlorotoluene	Methylene	1,1,2 Trichloroethylene
Chromium	Chloride	1,2,3 Trichloropropane
Cis 1,2 Dichloroethylene	Nickel	1,2,4 Trimethylbenzene
Creosotes	Pesticides	1,3,5 Trimethylbenzene
Cyanide	Petroleum Distillates	Vinyl Chloride
Dichlorobenzene	Phenols	Xylenes
	Phthalates	

All other halogenated hydrocarbon compounds.

Q. Sewage means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater

infiltration and surface water as may be present. A mixture of sewage as herein defined and industrial wastes or other wastes as defined above may be considered industrial wastes or commingling within the meaning of this Article.

R. Stormwater Runoff means the portion of total precipitation that travels over natural and developed land surfaces (e.g., woodlands, lawns, farms, gardens, roofs, driveways, parking lots, roads, etc.) transporting contaminants that may be present.

S. Temporary Disposal System means a system for the disposal of sewage where such system is intended for use for a specified period of time prior to completion of the construction of an approved sewage treatment and disposal system.

T. Toxic or Hazardous Materials shall mean the same as defined in Article 12 of this Code.

U. Toxic or Hazardous Wastes shall mean the same as defined in Article 12 of this Code.

V. Treatment System means a system designed to reduce or alter the contaminant content of sewage or industrial waste for the purpose of permitting the discharge of some portion of said waste.

W. Water Supply Sensitive Areas means:

1. A groundwater area separated from a larger regional groundwater system where salty groundwater may occur within the Upper Glacial aquifer, and where deepening of private wells and/or the development of community water supplies may be limited; or
2. Areas in close proximity to existing or identified future public water supply wellfields. In general, for the purposes of this Article, "close proximity" shall mean within 1,500 feet upgradient or 500 feet downgradient of public supply wells screened in the Upper Glacial aquifer.
3. A limited water budget area, not underlined by fresh Magothy, defined by published reports acceptable to the Commissioner.
4. The areas described in items W.1.,2.,3., above are set forth on a map adopted by the Board filed in the Office of the Commissioner in Hauppauge, New York.

## **§760-704 Powers of the Commissioner**

The Commissioner may:

- A. make, or cause to be made, or order the owner or operator of any property or facility to make any investigation or study which, in the Commissioner's opinion, is

needed for the enforcement of this Article or for controlling or reducing the potential for contamination of the waters of the County from sewage, industrial or other wastes, toxic or hazardous materials and/or stormwater runoff. This may include the ordering of an independent groundwater investigation where evidence suggests that a discharge of toxic or hazardous materials may have occurred.

B. approve, with conditions, non-residential structures, processes, facilities and activities in deep recharge areas and water supply sensitive areas to assure compliance with §760-706. Such conditions shall be embodied in covenants running with the land as specified in the Department's standards;

C. promulgate and establish standards and schedules to effect the purpose of this Article;

D. order the posting of a performance bond or other undertaking either prior to or subsequent to the construction or operation of an industrial facility within Suffolk County on a case-by-case basis if evidence indicates such may be necessary to protect water resources from the adverse effects of operating such a facility.

E. Notwithstanding any other provision of this Article, if the Commissioner finds a condition which has the potential for contaminating the waters of the County with toxic or hazardous materials, or which otherwise constitutes an immediate danger to public health, and determines that it could appear prejudicial to the public interest to delay action, the Commissioner may serve an order upon the permit holder, or if there is no permit upon the person in charge of the facility or site, citing such conditions and specifying the corrective action to be taken and a time period of less than fifteen (15) days within which such action shall be taken.

Such order may state that a permit is immediately suspended and/or that all operations are to be discontinued forthwith.

Any order requiring certain action or the cessation of certain activities immediately or within a specified period of less than fifteen (15) days shall provide such person an opportunity to be heard, which hearing shall be scheduled for a time no more than fifteen (15) days after the date the order is served.

## **§760-705 General Restrictions and Prohibitions**

### **A. Construction of a Disposal System**

1. It shall be unlawful for any person to construct, reconstruct, install or substantially modify any disposal system without first having obtained a permit therefor issued by or acceptable to the Commissioner, pursuant to Department standards.

2. §760-705.A.1 does not apply to stormwater disposal systems unless

there is an actual or potential discharge into the system of industrial wastes, toxic or hazardous materials, or sewage.

#### B. Discharge

1. It shall be unlawful for any person to discharge sewage, industrial wastes, offensive materials, toxic or hazardous materials or other wastes to any surface waters or groundwaters, to the surface of the ground or to a disposal system unless such discharge is specifically in accordance with a State Pollutant Discharge Elimination System (SPDES) Permit or other permit issued by or acceptable to the Commissioner for that purpose.

2. No permits, as stipulated in §760-705.B.1, are required for the following types of discharges:

a. discharge of sewage from an existing residential structure to a private or individual sewage disposal system, or from any residential structure, houseboat or housebarge to a communal sewage system or municipal sewage system that does not contravene standards or result in a public health nuisance;

b. discharge of sewage from a commercial or industrial facility to a communal sewage system or municipal sewage system;

c. discharge of stormwater to a disposal system unless there is an actual or potential discharge into the system of industrial wastes or toxic or hazardous materials or sewage.

3. For existing discharges not prohibited by law prior to the effective date of this Article, a permit shall be obtained within the time limit provided in §760-707.

#### C. Construction or Operation of a Treatment System

1. It shall be unlawful for any person to construct, modify or operate a treatment system without first obtaining a permit therefor issued by or acceptable to the Commissioner.

#### D. Commingling

1. It shall be unlawful for any person to commingle stormwater runoff, cooling water, sewage or industrial wastes in any disposal system not approved for that purpose pursuant to this Article.

#### E. Stormwater Discharges

1. It shall be unlawful for any person to develop or use land in such a manner as to cause stormwater runoff from that land to become contaminated and

discharged in contravention of the other provisions of this Article.

F. Marinas

1. It shall be unlawful for any marina to permit overnight docking of any houseboat or housebarge unless the marina has a waste pump-out facility. Construction of said pump-out facilities shall be in accordance with standards which may be promulgated by the Commissioner.

## **§760-706 Deep Recharge Areas and Water Supply Sensitive Areas**

The following additional restrictions and prohibitions shall apply in deep recharge areas and water supply sensitive areas.

A. It shall be unlawful for any person to discharge any restricted toxic or hazardous materials or to discharge industrial wastes from any facility containing restricted toxic or hazardous materials to the groundwaters, to the surface of the ground, beneath the surface of the ground, to a municipal or communal sewage system, or to a disposal system except as follows:

1. application of fertilizers, pesticides or other agricultural chemicals approved for that purpose by the appropriate state and federal agencies; or
2. application of road surfacing or road construction materials or deicing salts to roadways, walkways, and parking areas; or
3. discharge from an establishment to a municipal or communal sewage system with effluent disposal to marine surface waters or recharge outside of the deep recharge areas and water supply sensitive areas, and the following minimum requirements are satisfied pursuant to a permit issued by or acceptable to the Commissioner:
  - a. Dual plumbing systems shall be installed, one for sanitary wastes and one for industrial wastes.
  - b. Sampling access approved by the administrative head of the municipal or communal sewage system and the Department shall be provided for both the sanitary and industrial waste systems.
  - c. The administrative head of the municipal or communal sewage system, with approval of the Department, shall determine which industrial wastes are acceptable to "hold and haul" and which require pretreatment prior to discharge to the collection system in order to assure compliance with the applicable sewer use ordinance.
  - d. Personnel authorized by the administrative head of the municipal or communal sewage system or other individual(s) acceptable to the

Commissioner, pursuant to Department standards, shall operate at each establishment its pretreatment facility for industrial wastes prior to discharge to the collection system.

e. Only batch pretreatment of industrial wastes will be permitted. Batch facilities and facilities for storage of drums containing toxic or hazardous wastes shall be located in an area accessible at all times by district personnel, in or adjacent to the industrial building, with heat and power provided by the owner.

f. Personnel authorized by the administrative head of the municipal or communal sewage system or other individual(s) acceptable to the Commissioner, will be responsible for collection and disposal of pretreatment sludges, and other "hold and haul" materials.

g. The owner shall allow the personnel authorized by the administrative head of the municipal or communal sewage system or other individual(s) acceptable to the Commissioner, access, from time to time, to wet process areas to perform their duties and inspections.

h. Industrial process-area floors shall be provided with adequate means to contain any spill of restricted toxic or hazardous materials. The design of containment facilities shall be subject to the approval of the Commissioner.

i. A minimum of four (4) groundwater monitoring wells shall be installed at the owner's expense.

j. Financial assurance shall be provided to pay for cleanup of spills. This cost shall be entered as a judgment upon notice against the owner, occupant, tenant, or lessee responsible for such spill or spills.

B. It shall be unlawful to use or store any restricted toxic or hazardous materials on any premises except as follows:

1. a. the intended use of the product stored is solely for on-site heating, or intermittent stationary power production such as stand-by electricity generation or irrigation pump power; and

b. the facility for such storage is intended solely for the storage of kerosene, number 2 fuel oil, number 4 fuel oil, number 6 fuel oil, diesel oil or lubricating oil; and

c. the facility for such storage is constructed in accordance with the requirements of Article 12 of the Suffolk County Sanitary Code for new construction; and

d. the materials so stored are not industrial wastes from processes containing restricted toxic or hazardous materials; and



- e. the materials stored are not intended for resale; or
- 2. a. for buildings with gross floor area of less than or equal to 20,000 square feet (s.f.), the materials so stored are in containers where the total liquid capacity stored at any time does not exceed 250 gallons and where the dry storage in bags, bulk or small containers does not exceed 2,000 pounds; and  
b. for buildings with gross floor area greater than 20,000 square feet (s.f.), the materials so stored are in containers where the total liquid capacity stored at any time does not exceed 0.0125 gals/s.f. of gross floor area and where the dry storage in bags, bulk or small containers does not exceed 0.1 pounds/s.f. of gross floor area; and  
c. for the purpose of determining quantity of allowable storage, the internal fluids within production machinery shall not be included; and  
d. if storage of restricted toxic or hazardous materials at a facility exceeds 1250 gallons or 10,000 pounds dry storage, then an annual environmental audit is to be conducted of the property, buildings and appurtenances, and the audit will conform to any standards which may be promulgated by the Commissioner; or
- 3. a. the materials so stored are intended solely for treatment or disinfection of water or sewage in treatment processes located at the site; or
- 4. a. the materials are stored solely incident to office operations, or wholesale/retail sales on premises and are not processed, pumped, packaged, or repackaged at the site; and  
b. for the purpose of these regulations, Office Operations means a place in which business, clerical or professional activities are exclusively conducted and there are no manufacturing or other industrial activities; and  
c. wholesale storage shall be limited to 5-gallon maximum size containers and the total storage capacity shall not exceed the storage allowed under §760-706 B.2.b or 5,000 gallons or 40,000 pounds of dry storage in bags, bulk, or small containers, whichever is greater; or
- 5. a. the materials are stored at a service station or similar installation solely incident to the distribution of gasoline, kerosene, diesel oil or other petroleum products for motor vehicular uses and repair; and  
b. the facility for such storage is constructed in accordance with the requirements of Article 12 of the Suffolk County Sanitary Code for new construction; or
- 6. a. the materials are stored at an establishment for which a permit has been secured in accordance with §760-706.A.3, and a permit for such

storage has been granted by the Department.

7. a. the materials are stored on a farm site solely incident to on-premises use, and consist of fertilizers, pesticides, or other agricultural chemicals to be applied in accordance with the provisions of &sect;760-706.A.1.

C. The provisions of &sect;760-706.A and &sect;760-706.B of this Article shall not apply to residential facilities, but shall be applicable:

1. immediately for all non-residential facilities which have not been approved, constructed, or put into operation prior to the effective date of this Article; and
2. immediately for all non-residential facilities which were approved, constructed, or put into operation prior to the effective date of this Article upon:
  - a. any change in use or process which results in an increase of mass loading in the discharge of restricted toxic or hazardous materials, or introduces a toxic or hazardous material not previously discharged; or
  - b. any change in use or process which results in an increase of the storage or change of type of restricted toxic or hazardous materials.

D. When upgraded in accordance with the time schedule specified in Article 12, existing facilities, including those for petroleum products, not otherwise covered by items &sect;760-706.A., &sect;760-706.B. or &sect;760-706.C., above, shall conform to the requirements of Article 12 for new construction. These requirements do not apply to facilities upgraded in accordance with Article 12 prior to the effective date of this Article.

## **§760-707 Permits**

A. All permits required by this Article shall be applied for in accordance with the provisions of Article 3 of the Suffolk County Sanitary Code.

B. All persons required to obtain a permit by reason of any law, rule or regulation in effect prior to the effective date of this Article shall be governed by such law, rule or regulation in determining when said permit shall be obtained.

C. All persons newly required to obtain a permit by this Article due to any act or condition in existence as of the date this Article becomes effective, shall apply for said permit within one (1) year of that date.

D. All persons required to obtain a permit by this Article due to any act or condition not in existence on the effective date of this Article must apply for and receive said permit prior to undertaking such act or creating such condition.

## **§760-708 Emergency Embargo; Seizure**

A. In accordance with the general provisions of Article 2 of the Suffolk County Sanitary Code, the Commissioner or his authorized agent is authorized to seize and embargo materials consisting of industrial wastes, toxic or hazardous materials, or any combination thereof when in the judgment of the Commissioner, the nature and condition of said material constitutes an actual or potential hazard to the source of drinking water supply.

B. The following additional requirements shall also apply:

1. When materials are embargoed or seized pursuant to subsection A. above, they shall not be moved, used or removed except by or under the direction of an agent authorized by the Commissioner.
2. It shall be unlawful for a person not authorized by the Commissioner to remove or alter an embargo order or tag.
3. After having embargoed, condemned or otherwise seized materials pursuant to this section, the Commissioner shall afford the owner of the seized material an opportunity to be heard at a hearing held within ninety-six (96) hours after the seizure. The Commissioner may then vacate the order or sustain it and order a proper and safe disposition of the material seized.
4. Unless ordered otherwise, removal shall be at the expense of the owner.

## **§760-709 Monitoring and Reporting**

A. All persons maintaining subsurface leaching facilities and holding tanks for the purposes defined in §760-703.G shall make them accessible to representatives of the Department for sampling and monitoring purposes. The type of access shall be in conformance with the requirements of the Commissioner.

B. All persons maintaining a discharge of industrial wastes, toxic or hazardous materials, and/or offensive materials pursuant to a permit issued by the Commissioner must, at their own expense, monitor the discharge for such constituents at such intervals as specified in the permit.

1. The samples shall be collected in a manner acceptable to the Commissioner, pursuant to Department standards, and analytical results shall be reported to the Department as specified in the permit.
2. The permittee may employ private laboratory facilities of its own choosing. However, the laboratory shall be approved by New York State Departments of Health or Environmental Conservation or other agency acceptable to the Commissioner for the type of analyses performed.

3. Sampling shall be by an employee of the laboratory which prepares the analysis, and the laboratory shall be responsible for the accuracy and quality of the sample.

C. Owners, tenants and occupants of industrial facilities may be required to install monitoring systems, such as monitoring wells, both upgradient and downgradient in the groundwater flow. The number and location of the monitoring wells and their installation shall be in conformance with the requirements of the Department. The owner, tenant and occupant shall be responsible for all costs, as well as costs for groundwater monitoring and evaluation as required by the Department.

D. The owners of all real property used for non-residential purposes shall, within thirty (30) days of change, report in writing to the Department:

1. New Facility

a. Name of tenant or occupant; address, including tax map number.

b. Description of process, operation, or use.

2. Existing Facility

a. Name of new tenant or occupant; address, including tax map number; description of process, operation, or use.

b. Description of change of process, operation, or use.

This notification requirement shall not apply to changes in tenancy or occupancy of the space where a permit is not, or would not be, required for the use.

## **§760-710 Requirement to Connect to Public Sanitary Sewer**

A. Sewage and industrial wastes from any building or premises shall be discharged directly into a municipal sewage system, if available and accessible. Discharge of industrial wastes to a municipal sewage system shall be in accordance with the applicable sewer use ordinance.

B. If there is no municipal sewage system or facility connecting therewith available and accessible, sewage from any new building or premises shall be discharged directly into a communal sewage system or a facility connecting with a communal sewage system, if available and accessible.

C. If there is no municipal or communal sewage system or facility connecting therewith available and accessible, a private sewage disposal system approved by the Department may be used.

D. In the event that a municipal or communal sewage system or facility connecting therewith becomes available and accessible, any building or premises shall be

connected to such municipal or communal sewage system, and immediately thereafter the use of any other sewage disposal system or facility shall be discontinued.

## **§760-711 Abandonment of Disposal Systems**

Existing disposal systems abandoned as a result of connection to municipal sewage systems or communal sewage systems or different disposal systems or for other reasons shall be removed or permanently sealed in a manner acceptable to the Commissioner.

## **§760-712 Engineering Plans**

A. All plans, specifications, and reports required by this Article shall be prepared by a New York State licensed Professional Engineer unless otherwise prescribed in the New York State Education Law.

B. No permit to construct, reconstruct, modify, use or operate shall be issued without the prior submission of plans and/or reports acceptable to the Commissioner, pursuant to Department standards.

## **§760-713 Operation, Maintenance and Repair of Sewage or Industrial Waste Treatment Facilities**

A. All sewage and industrial waste treatment facilities shall be operated by a person or persons with qualifications acceptable to the Commissioner, pursuant to Department standards.

B. An operator of a sewage or industrial waste treatment system shall be physically present at the sewage or industrial waste treatment plants he is responsible for operating for a period of time each day satisfactory to the Commissioner.

C. This section does not apply to underground septic tank and leaching pool systems used for the disposal of domestic sewage.

D. All sewage or industrial waste treatment facilities shall be operated in strict accordance with the discharge permit issued for the facility.

E. All sewage or industrial waste treatment facilities shall be maintained in good operating condition at all times in accordance with good engineering practice. All structures and equipment shall be protected against corrosion and deterioration. Repairs shall be made in a timely fashion to minimize downtime of equipment.

Preventative maintenance shall be performed on a scheduled basis to anticipate and prevent equipment failure.

### **§760-714 Enforcement**

The provisions of this Article shall be enforced in accordance with the enforcement provisions of Article 2 of the Suffolk County Sanitary Code.

### **§760-715 Variances and Waivers**

In any case where an applicant for a permit or approval is dissatisfied with a determination of the authorized agent to act for the Commissioner, or seeks a variance or waiver from the strict application of the letter of the requirements of this Article, or standards promulgated pursuant to this Article, the applicant may appeal from the determination of the deputy or for consideration of the application to the Board of Review in accordance with the provisions of §760-609 of the Suffolk County Sanitary Code.

### **§760-716 Separability of Provisions**

In the event that any provision of this Article is declared unconstitutional or invalid, or the application thereof to any person or circumstance is held invalid, the applicability of such provision to other persons and circumstances and the constitutionality or validity of every other provision of this Article shall not be affected thereby.

(Adopted 5/22/1985; Amended 4/9/1986, 1/14/1987, 1/24/1990, 11/4/1992, 6/30/1993)

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